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Kyle Everett

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

In re

BENJA INCORPORATED,

Debtor.

Case No. 20-30819-DM

Chapter 7

**REQUEST FOR ENTRY OF  
ORDER BY DEFAULT  
APPROVING TRUSTEE'S  
MOTION TO APPROVE  
COMPROMISE OF  
CONTROVERSY (MHC  
FINANCIAL SERVICES, LLC)**

The Trustee hereby files his Request for Entry of Order by Default in support of his Motion to Approve Compromise of Controversy with MHC Financial Services, LLC (the "Motion"), ECF 170, and in support thereof states as follows:

1. August 7, 2023, the Trustee filed the Motion and the supporting Declaration of Kyle Everett. ECF 170, 170-1. Also on August 7, 2023, the Trustee filed the Notice and Opportunity for Hearing (the "Notice") relating to the Motion. ECF 171. The Notice was served on creditors in the Court's ECF service list on August 7, 2023, and on creditors listed on the Court's mailing matrix on August 8, 2023. ECF 172, 173. The Trustee caused an Errata to the Motion and a Supplemental Declaration in support of the Motion to be filed and served on

1 August 14, 2023 and August 15, 2023. ECF 174-177. The Errata corrected a math error in the  
2 Motion regarding estimated, projected distributions to general unsecured creditors. The  
3 Supplemental Declaration provides, in short, that the math error had no effect on the Trustee's  
4 conclusion in his business judgment that the Motion satisfies the *A&C Properties* factors  
5 governing Rule 9019 motions in the Ninth Circuit.

6 The Notice indicated that anyone wishing to object to the proposed stipulation was  
7 required to do so by filing and serving a written objection no later than 21 days from the date on  
8 which the Notice was served. The last day for filing and serving objections was August 29,  
9 2023. The Trustee received no objections, and none were filed in the bankruptcy case. Trustee's  
10 counsel did, however, receive inquiries about the Motion and proposed order from Busey Bank.  
11 Accordingly, I have obtained Busey Bank's signature on the order I have uploaded granting the  
12 Motion.

13 This Request for Entry of Order by Default is supported by the concurrently filed  
14 Declaration of Jennifer C. Hayes.

15 Based on the foregoing, the Trustee requests entry of an order approving the Motion  
16 and providing as follows:

17 1. The Motion to Approve Compromise of Controversy with MHC Financial  
18 Services, LLC (the "Motion"), ECF 170, is granted.

19 2. The Settlement Agreement and Release attached as **Exhibit A** to the  
20 Declaration of Kyle Everett in Support of the Motion, ECF 170-1, is approved.

21 3. By not objecting to the Motion, Busey Bank has not waived the right: (a) to  
22 object to the claims filed in the above-captioned case by Benja investors as being subordinated  
23 to the claims filed in the above-captioned case by Benja creditors; or (b) to assert a lien on the  
24 proceeds from the Trustee's settlement with MHC.

25 4. Without further Court order, the Trustee is authorized to take those actions that  
26 he deems appropriate to implement the relief requested in the Motion and ordered by the Court.

5. The Court's order is effective upon entry, and the stay otherwise imposed by Federal Rule of Civil Procedure 62(a) and/or Federal Rule of Bankruptcy Procedure 6004(h) shall not apply.

Dated: August 30, 2023

FINESTONE HAYES LLP

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*/s/ Jennifer C. Hayes*

Jennifer C. Hayes  
Attorneys for Kyle Everett,  
Chapter 7 Trustee